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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

**LAWRENCE JAMES SACCATO,**

Plaintiff Pro Se,

Case No. 6:10-cv-06244-AA

v.

**DAVIS LAW FIRM,**

DEFENDANT U.S. BANK NATIONAL  
ASSOCIATION'S MOTION TO DISMISS

Defendant,

**U.S. BANK NATIONAL ASSOCIATION**

**N.D.,** Co-Defendant.

**DOES 1 THROUGH 10.**

**LR 7-1 Certification**

The parties have conferred on the subject matter of this motion and, despite a good faith effort, have been unable to resolve the dispute.

**Motion**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendant U.S. Bank National Association ("U.S. Bank") moves to dismiss the claims asserted against it by plaintiff Lawrence James Saccato for failure to state a claim upon which relief can be granted. Plaintiff alleges two

Fair Credit Reporting Act (“FCRA”) claims against U.S. Bank in its capacity as a “furnisher” of consumer credit information. However, in order to trigger private liability under FCRA against a furnisher, the plaintiff must establish that the furnisher received notice that the plaintiff-consumer disputed the accuracy of the information reported on his or her credit report *from a credit reporting agency*. Notice of a dispute received directly from the consumer does not trigger a private right of action against a furnisher. Therefore, whereas here plaintiff fails to allege that U.S. Bank received notice that he disputed information on his credit report that was provided by U.S. Bank from a credit reporting agency, he failed to state a claim upon which relief can be granted, and the claims against U.S. Bank must be dismissed.

Dated: November 29, 2010.

LARKINS VACURA LLP

/s/ Danielle J. Hunsaker

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